



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE  
DIRECTOR

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AO-90-02

Wade M. Welch, Esquire  
45 School Street, First Floor  
Boston, MA 02108

Dear Mr. Welch:

This letter is in response to your request, as Town Counsel of the Town of Winchester (the "Town"), for an advisory opinion concerning the use of public facilities for political purposes.

Your inquiry addresses two issues, for which we have articulated specific questions and provided answers therefor as indicated below.

1. May public town facilities, such as the library, the transfer station, and the public areas and meeting rooms of the town hall, be used for meetings concerning ballot questions or to gather signatures for such questions?

M.G.L. c.55 governs the regulation of campaign finance activity in Massachusetts, which includes the use of government resources for political purposes. In Anderson v. City of Boston, 376 Mass. 178 (1978), the Supreme Judicial Court looked to the provisions of M.G.L. c.55 in addressing the question of whether municipalities have the authority to appropriate and expend funds for the purpose of engaging in any activity designed to influence the results of a referendum question without specific statutory authority to so act. The Court concluded that municipalities do not have such authority. The Court further stated that the use of government resources, such as telephones and printed materials provided by public funds, and use of facilities paid for by public funds would be improper, unless each side were given equal representation and access.

It is therefore the opinion of this office that areas within public buildings which are accessible to the public (i.e. not private offices) may be used by the opponents and the proponents of an initiative petition provided each side is given equal representation within and access to such areas.

2. May political committees use public meeting rooms?

The Anderson Court also stated that M.G.L. c.55 was

"intended to reach all political fundraising and expenditures within the Commonwealth . . . If the Legislature had expected that municipalities would engage in such activities or intended that they could, M.G.L. c.55 would have regulated those activities as well."

Section 22A of M.G.L. c.55 prescribes a reporting procedure for expenditure of funds by a municipality to influence or affect the vote on a question submitted to the voters. The statute does not describe a similar procedure for reporting municipal expenditures for the purpose of nominating or electing candidates or supporting political parties and, as the Court stated in Anderson, because such expenditure is not expressly permitted, it is prohibited.

It is therefore the opinion of this office that the use of public meeting rooms by political committees organized to support candidates or political parties would be prohibited under M.G.L. c.55 as a municipal contribution for the purpose of nominating or electing candidates or supporting political parties unless (a) all political committees are afforded a similar opportunity to use the public meeting rooms, (b) such committees pay the Town the same fee for the use of the public meeting rooms, if any, charged other groups, and (c) the Town is reimbursed by such political committees for all out-of-pocket expenses, if any, such as janitorial fees, security costs and the like, incurred in the use of the public meeting rooms.

We would also alert you to the prohibition contained in section 14 of M.G.L. c.55 against demanding, soliciting or receiving any payment or gift of money or other thing of value for political purposes within a public building. Any meeting held by a political committee in a public meeting room should therefore not be of a fundraising nature. This prohibition would include planning sessions for fundraising events as well as the actual events, meetings at which membership dues are collected, and so-called "pass-the-hat" events.

This opinion has been rendered solely on the basis of the representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have any additional questions.

Very truly yours,



Mary F. McTigue  
Director